

November 17, 2005

Electronic Filing

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
12th Street Lobby, TW-A325
Washington, DC 20554

Re: ***Ex Parte Presentation***
IB Docket Nos. 05-220 & 05-221

Dear Ms. Dortch:

The undersigned parties jointly propose that initiating a new full rulemaking proceeding is a far better way to address the “returned 2 GHz spectrum issue” than dividing the band between the two incumbent licensees, as they request. While the undersigned do not necessarily agree on what the Commission ultimately should do with the 24 MHz of abandoned spectrum in the 2 GHz Mobile Satellite Service spectrum allocation, the parties do agree that it is in the public interest, and the interest of sound spectrum management, that the Commission initiate a rulemaking proceeding to consider the best use of this spectrum, rather than simply disseminate it to the two incumbent licensees without a complete record on the issue.

The referenced spectrum-based proceedings have stimulated an almost unprecedented range of interest from various segments of the communications industry, including providers of terrestrial commercial mobile radio services, Critical Infrastructure Industries, Mobile Satellite Service, Satellite Digital Audio Radio Service, Broadcast Auxiliary Service, amateur radio operators, and others. Many of the signatories to this filing have supported a call for a full rulemaking, versus giving the spectrum to ICO Satellite Services (ICO) and TMI Communications and Company Limited Partnership (TMI) as has been argued.

CTIA, for example, has called for a full rulemaking in each of its Comments and Reply Comments. Additionally, Inmarsat stated that “instead of granting TMI’s and ICO’s request for additional spectrum...[t]he Commission’s spectrum management responsibilities mandate that these questions and opportunities be explored in a comprehensive manner and in a rulemaking.”¹ Other commenters also have argued that the FCC should determine the best use of all 24 MHz of abandoned spectrum in a single rulemaking proceeding, including the American Petroleum Institute²; Cingular³; Total RF⁴; Sirius⁵; T-Mobile⁶; and U.S. Cellular Corp.⁷

¹ Reply Comments of Inmarsat Ventures Limited, *In the Matter of Comments Concerning Use of Portions of Returned 2 GHz Mobile Satellite Service Frequencies*, IB Dkt. No. 05-221 (Filed Aug. 15, 2005) at 7.

² See Comments of the American Petroleum Institute, *In the Matter of Use of Portions of Returned 2 GHz Mobile Satellite Service Frequencies*, IB Dkt. No. 05-221 (July 29, 2005) at 7.

In the rulemaking, the Commission should weigh the benefit to the public of whether there is a better use for this valuable spectrum than abruptly turning it over to TMI and ICO. To date, the Commission has not established any policy or rule regarding the use of additional abandoned 2 GHz MSS spectrum. A new rulemaking proceeding would be appropriate to consider the potential use of the spectrum. The record shows that there is a great demand for this spectrum and the Commission cannot overlook the public benefits that would be derived from redistributing this valuable spectrum beyond ICO and TMI. The Commission should consider whether it is in the public interest to award this valuable public spectrum to the two remaining 2 GHz MSS licensees that have yet to deploy service.

The 24 MHz is highly valued, both financially and for its location in the spectrum band. Initiation of a full rulemaking proceeding would address the questions raised by parties in the referenced dockets, including why ICO and TMI, who have yet to justify the need for more satellite spectrum, should be granted additional spectrum. Importantly, there is no harm to initiation of a rulemaking. ICO and TMI currently have no service and no customers in this band, have not launched satellites for this service, and are not slated to be operational until 2007 and 2008, respectively.

³ See Reply Comments of Cingular Wireless LLC, *In the Matter of Use of Portions of Returned 2 GHz Mobile Satellite Service Frequencies*, IB Dkt. No. 05-221 (July 25, 2005) at 5 (“Because the spectrum is sought for terrestrial use, it should be reallocated in a rulemaking to flexible, terrestrial use services and made available at auction.”).

⁴ See Comments of Total RF Marketing, Inc., *In the Matter of Use of Portions of Returned 2 GHz Mobile Satellite Service Frequencies*, IB Dkt. No. 05-221 (July 29, 2005) at 2.

⁵ See Comments of Sirius Satellite Radio, Inc., *In the Matter of Use of Portions of Returned 2 GHz Mobile Satellite Service Frequencies*, IB Dkt. No. 05-221 (July 29, 2005) at 3 (“At the very least, the Commission should consider in a single rulemaking all of the options for such spectrum, to fulfill its spectrum management obligation to ensure that the 2 GHz spectrum is used efficiently and effectively.”).

⁶ See Reply Comments of T-Mobile USA, Inc., *In the Matter of Use of Portions of Returned 2 GHz Mobile Satellite Service Frequencies*, IB Dkt. No. 05-221 (Aug. 15, 2005) at 1. (“[T]he FCC should initiate a full notice and comment rulemaking to determine how to redistribute and/or reallocate *all* of the surrendered 2 GHz MSS spectrum.”) (emphasis in the original).

⁷ See Comments of United States Cellular Corporation, *In the Matter of Use of Portions of Returned 2 GHz Mobile Satellite Service Frequencies*, IB Dkt. No. 05-221 (July 29, 2005) at 2.

Pursuant to Section 1.1206 of the Commission's rules, a copy of this letter is being filed via ECFS with your office. Should you have any questions, please do not hesitate to contact any of the undersigned.

Sincerely,

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